

## Message

**From:** Ozone Implementation Team [no-reply@sharepointonline.com]  
**Sent:** 10/3/2017 4:24:46 PM  
**To:** Svingen, Eric [Svingen.Eric@epa.gov]  
**Subject:** Ozone in the News - EPA Says No Update On Ozone Designations...

📎 EPA Says No Update On Ozone Designations... has been added



Mackintosh, David

10/3/2017 12:22 PM

**Title:** EPA Says No Update On Ozone Designations As NRDC Threatens Lawsuit

**Body:**

## EPA Says No Update On Ozone Designations As NRDC Threatens Lawsuit

October 02, 2017

EPA says it has “no further information” about when it will issue designations for which areas of the United States are either attaining or in nonattainment with the 2015 ozone standard after appearing to miss a Clean Air Act deadline of Oct. 1 for the findings, and environmentalists are threatening a suit to force issuance of the designations.

Under the air law, EPA has two years from the issuance of a new national ambient air quality standard (NAAQS) to issue final designations, which triggers an air law timeline for states to craft state implementation plans outlining the air pollution control measures they will impose in order to either stay in attainment or get out of nonattainment. EPA finalized its revised ozone NAAQS Oct. 1, 2015, making the designations deadline Oct. 1 this year.

EPA has statutory power to delay designations by one year if the administrator deems there to be insufficient data to make a decision. However, when Administrator Scott Pruitt formally delayed all designations by one year in June without any prior notice, he drew an immediate legal challenge from environmentalists and 15 states. Critics said his claim that data was missing from all states was not plausible, or legally defensible.

Pruitt in August then changed course and scrapped the one-year delay, leaving in place the Oct. 1 deadline to designate areas for the 2015 NAAQS. The Obama EPA set the NAAQS at 70 parts per billion (ppb), tougher than the prior limit set in 2008 of 75 ppb. EPA indicated that it might designate some areas by Oct. 1, but delay others.

State air regulators note that for air law procedural reasons, EPA cannot now issue on-time designations for areas where EPA and states disagree over states' recommended designations, or where states disagree with each other. States have said the delay in designations has created major problems for their air quality planning.

As of late Oct. 2, however, EPA appeared not to have issued any area designations for the new ozone standard. An EPA spokesperson tells *Inside EPA* only, "We have no further information at this time."

The Natural Resources Defense Council (NRDC), one of the groups that sued Pruitt over his initial delay, could sue EPA over the failure to issue all designations by Oct. 1. In a Sept. 29 statement, NRDC warned that if he "tries the same delaying tactic again now, he should expect legal action to force him to follow the law again."

Pruitt may attempt to "low-ball the number of areas suffering from unhealthy amounts of smog," or "deem an area in compliance with the standard if the agency claims it doesn't have enough information to deem it otherwise. This option lends itself to abuse by an administration seeking to low-ball the number of areas identified with unsafe ozone levels because most U.S. counties don't have ozone monitors," NRDC says. -- *Stuart Parker* ([sparker@iwpnews.com](mailto:sparker@iwpnews.com))

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